United Nations A/HRC/28/NGO/119

General Assembly

Distr.: General
25 February 2015

English only

Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03539 (E)
1503539

Please recycle

Abide by the Rules of International Law in Counter-Terrorism Actions While Addressing the Conditions Conducive to the Spread of Terrorism

1. Introduction

In the past few months, the international community has witnessed ever- growing threats of global terrorism by extremist groups that spread fear by means of violent acts designed to shock the conscience. The Islamic State of Iraq and the Levant (ISIL) has perpetrated heinous murders of a number of journalists and aid workers they had captured and taken hostage, including the beheadings of British aid workers, Alan Henning and David Haines, American journalists, James Foley and Steven Sotloff, and Japanese journalist, Kenji Goto.

In France, journalists and cartoonists from the weekly paper *Charlie Hebdo* were brutally slaughtered in an attack on the newspaper's office for which the associates of Al-Qaida in Yemen claimed responsibility. Meanwhile, in Nigeria, Boko Haram has continued its campaign of violence, conducting targeted attacks to schools and abducting schoolgirls to exploit them for sexual abuse and forced marriage.

These egregious acts of violence against civilians have attracted widespread condemnation from the international community, and Human Rights Now(HRN), a Tokyo based international human rights NGO joins its voice by unequivocally condemning terrorism.

No matter how the perpetrators purport to justify their acts as manifestations of their political, religious or other positions, terrorism in all its forms, committed by whomever, wherever and for whatever purposes, is unacceptable and we consistently condemn it as it represents total disregard of the rule of law as well as one of the most serious threats to international peace and security.

Faced with this situation, the UN is currently urged to strengthen its initiatives in the field of counter-terrorism. In regards to this development, Human Rights Now wishes to bring the attention of the Human Rights Council to the following two points:

2. The Need to Abide by the Rules of International Law in Counter-Terrorism Activities

First, the fight against terrorism must be conducted in compliance with international law. Expressing its "gravest concern" that parts of Iraq and Syria are now under the control of ISIL and the Al-Nusra Front, the Security Council, in Resolution 2170 (2014), condemned the recruitment by ISIL and Al-Nusra of foreign fighters; and it listed six individuals affiliated with those groups under the Al-Qaida sanctions regime set up by Resolutions 1267 (1999) and 1989 (2011). Resolution 2178 (2014) called upon member States to respond to the threat of foreign terrorist fighters through effective border controls as well as to prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of terrorist acts. In the wake of hostage-killings including the Japanese journalist, the Security Council passed Resolution 2199 (2015) bolstering the Council's previous measures to cut off financing for ISIL and its affiliates.

While HRN understands the need for these measures, member States must comply with international law including international human rights law, refugee law and international humanitarian law in adopting them[1]. It is to be recalled that terrorism cannot and should not be automatically associated with any particular religion, nationality, or civilization.

[1] This point is also reaffirmed in paragraph 5 of Resolution 2178 (2014).

For example, racial profiling in border controls, targeting persons of a certain race, religion, national or ethnic origin – real or perceived – solely on the basis of such characteristics, may amount to racial discrimination and thus run counter to a fundamental principle of international human rights law.

On the other hand, we have to point out that military intervention against ISIL gives rise to the question of the legality of such intervention under international law, which prohibit the use of force except in the case of self-defense in response to an armed attack (Article 51 of the UN Charter) and in situations in which the Security Council decides to take forcible measures under Chapter 7 of the Charter. The United States began airstrikes against ISIL, which controls parts of Iraqi and Syrian territory, in August 2014 in circumstances which fall into neither of the above two categories. With regard to the attack on Iraq, it may be said that the wrongfulness of the act in terms of international law is precluded, given that Iraq requested foreign assistance in its fight against ISIL[2] and later expressly consented to "international efforts to strike ISIL sites and military strongholds" led by the US[3]. However, Syria has not given consent to the airstrikes on its territory to this day. While a wide international consensus exists on the criminality of the acts of ISIL, unilateral military intervention without the authorization of the Security Council is contrary to international law. HRN urges all parties concerned intervening in the conflict to comply with international law, including international human rights and humanitarian law.

3. The Importance of Addressing Conditions Conducive to the Spread of Terrorism

Secondly, HRN is of the opinion that the international community should also address the "root causes" of terrorism, in other words, the conditions conducive to the spread of terrorism. Elements influencing the rise of terrorism may certainly be diverse, but if we take the case of the formation of ISIL, we cannot be blind to the historical background which led to the growth of Al-Qaida in Iraq that later became ISIL, including the unilateral attack on Iraq in 2003 by the US and UK, the resulting violent destruction of order, the subsequent occupation, and the ongoing sectional violence in post-invasion Iraq. During the US invasion, Saddam Hussein's former Ba'ath party officials were brutally murdered; and in the post-invasion period, Sunnis have been discriminated against and persecuted by the Shi'a-dominated government.

In recent years, for example, a massive protest against the government by those demanding the abolition of the anti-terrorism laws that they say are used to harass Sunnis took place in December 2012, demonstrating that Sunnis suffer from an acute sense of marginalization[4]. In January 2014, the government deployed the security forces in Ramadi and Fallujah in response to an alleged attack by anti-government fighters, conducting indiscriminate attacks by heavy mortar fire in populated residential areas without any protective measure for civilians[5]. ISIL in Iraq enlarged their power among locals amid such escalation of violence.

---

[2] Letter dated 25 June 2014 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General, S/2014/440(2014). In this letter, the Representative of Iraq requested the international community to assist Iraq "by providing military training, advanced technology and the weapons required to respond to the situation".

[3] Letter dated 20 September 2014 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, S/2014/691 (2014).

[4] *Iraqi Sunnis stage big anti-government rallies*, http://www.reuters.com/article/2012/12/28/us-iraq-protests-idUSBRE8BR08O20121228. "Many Sunnis, whose community dominated Iraq until the fall of Saddam Hussein in 2003, accuse Maliki of refusing to share power and of being under the sway of its non-Arab neighbor. Activists' demands include an end to the marginalization of Sunnis, the abolition of anti-terrorism laws they say are used to target them".

5 *Iraq: Call for an immediate stop to indiscriminate attacks in Anbar province that have resulted in civilian casualties and thousands of IDPs*, http://hrn.or.jp/eng/news/2014/01/22/iraq-call-for-an-immediate-stop-to-indiscriminate-attacks-in-anbar-province-that-have-resulted-in-civilian-casualties-and-thousands-of-idps/.

Furthermore, there is no denying that torture and maltreatment of Muslims by the US forces in detention centers such as Abu Ghraib and Guantanamo Bay have greatly exacerbated resentment and hatred among Muslims against the US and the States that support it.

According to the Senate Intelligence Committee Study on the CIA's Detention and Interrogation Program released to the public in December 2014, the interrogations of CIA detainees were "brutal and far worse than the CIA represented to policymakers and others"; the CIA applied its "enhanced interrogation techniques" such as slaps, "wallings" (slamming detainees against a wall) and waterboarding, frequently concurrent with sleep deprivation and nudity[6].

The orange clothing worn by ISIL hostages is modeled after the orange jumpsuits worn by inmates at Guantanamo Bay.

As the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism emphasized in his report, efforts to address the conditions conducive to terrorism form an important part of sustainable strategies to prevent terrorism[7], a view with which HRN also concurs.

The UN Global Counter-Terrorism Strategy adopted by the General Assembly in 2006 clearly recognizes this, and the first chapter of the strategy is devoted to the issue[8].

HRN urges States to undertake measures aimed at addressing such conditions, including peaceful resolution of conflicts, promotion of ethnic and religious tolerance, and the reinforcement of social inclusion that could reduce marginalization and the sense of victimization propelling people to extremism.

---

[6] *Senate Select Committee on Intelligence Committee Study ofthe CIA's Detention and Interrogation Program. Findings and Conclusions*, http://www.feinstein.senate.gov/public/index.cfm/files/serve?File_id=a992171e-fd27-47bb-8917-5ebc98c72764&SK=04753BC866283C0F5913D7E1A24FA851.

[7] E/CN.4/2006/98 (2005), paras.64-65.

[8] A/RES/60/288 (2006).